LASSEN COUNTY

Audit Report

COURT REVENUES

July 1, 2004, through June 30, 2011



JOHN CHIANG California State Controller

December 2013



JOHN CHIANG California State Controller

December 3, 2013

Honorable Karen Fouch Lassen County Auditor 221 South Roop Street, Suite 1 Susanville, CA 96130 Andi Ashby Court Executive Officer Superior Court of California, Lassen County 2610 Riverside Drive Susanville, CA 96130

Dear Ms. Fouch and Ms. Ashby:

The State Controller's Office audited Lassen County's court revenues for the period of July 1, 2004, through June 30, 2011.

Our audit found that the county underremitted \$369,469 in court revenues to the State Treasurer because the court improperly distributed Traffic Violator School fees, thereby underestimating the maintenance of effort (MOE) calculations by \$22,722, and county miscalculations caused insufficient revenue (\$740,937) to be used in the MOE calculation. The county should have included an additional \$740,937 in the MOE calculations.

The county auditor's office should remit the balance of \$369,469 to the State Treasurer.

The county should differentiate the individual accounts making up this amount on the bottom portion of the monthly TC-31, Remittance to State Treasurer, in accordance with standard remittance procedures. The county should state on the remittance advice that the account adjustments relate to the SCO audit for the period of July 1, 2004, through June 30, 2011.

Please mail a copy of the TC-31 and documentation supporting the corresponding adjustment(s) to the attention of the following individuals:

Jerry Zhou, Audit Manager
Division of Audits
State Controller's Office
Post Office Box 942850
Sacramento, CA 94250-5874

Cindy Giese, Collections Supervisor Division of Accounting and Reporting Bureau of Tax Administration Post Office Box 942850 Sacramento, CA 94250-5872 Once the county has paid the underremitted Trial Court Improvement Fund amounts, we will calculate a penalty on the underremitted amounts in accordance with Government Code sections 68085, 70353, and 70377.

If you have any questions, please contact Elizabeth Gonzalez, Chief, Local Government Compliance Audits Bureau, by phone at (916) 324-0622.

Sincerely,

Original signed by

JEFFREY V. BROWNFIELD, CPA Chief, Division of Audits

JVB/vb

cc: Jack Hanson, Chairman

Lassen County Board of Supervisors

John Judnick, Senior Manager

Internal Audit Services

Judicial Council of California

Julie Nauman, Executive Officer

Victim Compensation and Government Claims Board

Greg Jolivette

Legislative Analyst's Office

Sandeep Singh, Fiscal Analyst

Division of Accounting and Reporting

State Controller's Office

Cindy Giese, Supervisor, Tax Programs Unit

Division of Accounting and Reporting

State Controller's Office

Contents

Audit Report

Summary	1						
Background	1						
Objective, Scope, and Methodology	1						
Conclusion	2						
Follow-Up on Prior Audit Findings	2						
Views of Responsible Official	3						
Restricted Use	3						
Schedule 1—Summary of Audit Findings by Fiscal Year	4						
Schedule 2—Summary of Underremittances by Month, Trial Court Improvement Fund	5						
Findings and Recommendations	6						
Attachment A—County Auditor's Response to Draft Audit Report							
Attachment B—Court's Response to Draft Audit Report							

Audit Report

Summary

The State Controller's Office (SCO) performed an audit to determine the propriety of court revenues remitted to the State of California by Lassen County for the period of July 1, 2004, through June 30, 2011.

Our audit found that the county underremitted \$369,469 in court revenues to the State Treasurer because:

- The Court improperly distributed Traffic Violator School fees, thereby underestimating the maintenance-of-effort (MOE) calculations by \$22,722.
- County miscalculations caused insufficient revenue to be used in the MOE calculation. The county should have included an additional \$740,937 in the MOE calculation.

The county auditor's office should remit the balance of \$369,469 to the State Treasurer.

Background

State statutes govern the distribution of court revenues, which include fines, penalties, assessments, fees, restitutions, bail forfeitures, and parking surcharges. Whenever the State is entitled to a portion of such money, the court is required by Government Code (GC) section 68101 to deposit the State's portion of court revenues with the county treasurer as soon as practical and provide the county auditor with a monthly record of collections. This section further requires that the county auditor transmit the funds and a record of the money collected to the State Treasurer at least once a month.

GC section 68103 requires that the SCO determine whether or not all court collections remitted to the State Treasurer are complete. GC section 68104 authorizes the State Controller to examine records maintained by any court. Furthermore, GC section 12410 provides the SCO with general audit authority to ensure that state funds are properly safeguarded.

Objective, Scope, and Methodology

Our audit objective was to determine whether the county completely and accurately remitted court revenues in a timely manner to the State Treasurer for the period of July 1, 2004, through June 30, 2011. We did not review the timeliness of any remittances the county may be required to make under GC sections 70353, 77201.1(b)(1), and 77201(b)(2).

To meet our objective, we reviewed the revenue-processing systems within the county's Superior Court, Probation Department, and Lassen County Auditor's Office.

We performed the following procedures:

 Reviewed the accuracy of distribution reports prepared by the county that show court revenue distributions to the State, the county, and the cities located within the county

- Gained an understanding of the county's revenue collection and reporting processes by interviewing key personnel and reviewing documents supporting the transaction flow
- Analyzed various revenue accounts reported in the county's monthly cash statements for unusual variations and omissions
- Evaluated the accuracy of revenue distribution, using as criteria various California codes and the SCO's *Manual of Accounting and Audit Guidelines for Trial Courts*
- Tested for any incorrect distributions
- Expanded any tests that revealed errors to determine the extent of any incorrect distributions

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We did not audit the county's financial statements. We considered the county's internal controls only to the extent necessary to plan the audit. This report relates solely to our examination of court revenues remitted and payable to the State of California. Therefore, we do not express an opinion as to whether the county's court revenues, taken as a whole, are free from material misstatement.

Conclusion

Lassen County underremitted \$369,469 in court revenues to the State Treasurer. The underremittances are summarized in Schedule 1 and described in the Findings and Recommendations section of this report.

The county auditor's office should remit the balance of \$369,469 to the State Treasurer.

Follow-Up on Prior Audit Findings

The county has satisfactorily resolved the findings noted in our prior audit report, issued September 2005.

Views of Responsible Official

We issued a draft audit report on May 3, 2013. Karen Fouch, Lassen County Auditor, responded by letter dated May 15, 2013 (Attachment A), agreeing with the audit results, but not the identified causes of the problems. Also, Ms. Fouch requested that penalties and interest be waived. Further, Andi Ashby, Court Executive Officer, responded by letter dated May 13, 2013 (Attachment B), agreeing with the audit results. However, Ms. Ashby requested that Findings 2 and 3 be removed from the report because both findings have been corrected.

The SCO addresses the auditees' concerns within each finding.

Restricted Use

This report is solely for the information and use of Lassen County, the Lassen County Courts, the Judicial Council of California, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

Original signed by

JEFFREY V. BROWNFIELD, CPA Chief, Division of Audits

December 3, 2013

Schedule 1— Summary of Audit Findings by Fiscal Year July 1, 2004, through June 30, 2012

Description of Finding Account Title ¹ -Code Section	2004-05	2005-06	2006-07	Fiscal Year 2007-08	2008-09	2009-10	2010-11	Total	Reference ²
Underremitted 50% excess of fines, fees, and penalties: Trial Court Improvement Fund – GC §77205	\$ 47,854	\$ 50,386	\$ 53,544	\$ 55,972	\$ 65,392	\$ 48,118	\$ 48,203	\$ 369,469	Finding 1
Net amount underremitted to the State Treasurer	\$ 47,854	\$ 50,386	\$ 53,544	\$ 55,972	\$ 65,392	\$ 48,118	\$ 48,203	\$ 369,469	

¹ The identification of State revenue account titles should be used to ensure proper recording when preparing the remittance advice form (TC-31) to the State Treasurer.

² See the Findings and Recommendations section.

Court Revenues Lassen County

Schedule 2— **Summary of Underremittances by Month Trial Court Improvement Fund** July 1, 2004, through June 30, 2011

							al Year						
Month	2004	l-05	2005-06 2006-07		2007-08		2008-09		2009-10		2010-11		
July	\$		\$ _	- 5	\$ —	\$		\$	_	\$		\$	_
August			_	_	_								
September			_	_							_		
October			_	_							_		
November			_	_	_								
December			_	-					_				_
January			_	_	_								
February			_	-					_				_
March			_	-					_				_
April			_	-					_				_
May			_	_			_						
June ¹	47	,854_	50,386	<u> </u>	53,544	5	5,972		65,392	48	8,118		48,203
Total underremittances to the													
State Treasurer	\$ 47	,854	\$ 50,386	5 5	\$ 53,544	\$ 5	5,972	\$	65,392	\$ 48	8,118	\$ 4	48,203

NOTE: Delinquent Trial Court Improvement Fund remittances not remitted to the SCO within 45 days of the end of the month in which the fees were collected are subject to penalty, pursuant to Government Code section 68085(h). The SCO will calculate and bill the county for the penalty amount after the county pays the underlying amount owed.

¹ Maintenance-of-effort (MOE) underremittances.

Findings and Recommendations

FINDING 1— Underremitted excess of qualified fines, fees, and penalties The Lassen County Auditor's Office underremitted by \$369,469, the 50% excess of qualified fines, fees, and penalties to the State Treasurer for the seven fiscal years starting July 1, 2004, and ending June 30, 2011.

Government Code (GC) section 77201(b)(2) requires Lassen County, for its base revenue obligation, to remit \$397,468 for fiscal year (FY) 1998-99 and each fiscal year thereafter. In addition, GC section 77205(a) requires the county to remit to the Trial Court Improvement Fund, 50% of qualified revenues that exceed the stated base for each fiscal year.

The error occurred because the county used incorrect entries in its maintenance-of-effort (MOE) distribution working papers, and as a result of the following conditions:

- The MOE calculations were \$22,722 lower than required due to the \$1 distribution to the Courthouse Construction Fund and the \$1 distribution to the Criminal Justice Facility Fund from 100% of the Traffic Violator School fees rather than from the county's share only (23%).
- In preparing the MOE, the county excluded revenues due to inaccurate data provided by the Superior Court. The miscalculations resulted in adding back to "qualified revenues" the following:
 - 1. County base fines by \$21,421
 - 2. State penalties by \$623,626
 - 3. Traffic Violator School balance of fees of \$2,419
 - 4. Traffic Violator School fines of \$72,869
 - 5. Citation processing fees by \$8

Additional revenue of \$720,343 should have been included in the MOE.

- The county included ineligible revenues in its MOE calculations, causing decreases to "qualified revenues" of:
 - 1. County base fines by \$1,989
 - 2. Traffic Violator School balance of fees of \$2,129
 - 3. Administrative screening fees of \$8

A decrease in revenue of \$4,126 is required.

The qualified revenues reported for FY 2004-05 were \$674,349. The excess, above the base of 430,163, is \$244,168. This amount should be divided equally between the county and the State, resulting in \$122,093 excess due the State. The county has remitted a previous payment of \$74,239, causing an underremittance of \$47,854.

The qualified revenues reported for FY 2005-06 were \$683,379. The excess, above the base of \$430,163, is \$253,216. This amount should be divided equally between the county and the State, resulting in \$126,608 excess due the State. The county has remitted a previous payment of \$76,222, causing an underremittance of \$50,386.

The qualified revenues reported for FY 2006-07 were \$733,139. The excess, above the base of \$430,163, is \$302,976. This amount should be divided equally between the county and the State, resulting in \$151,488 excess due the State. The county has remitted a previous payment of \$97,944, causing an underremittance of \$53,544.

The qualified revenues reported for FY 2007-08 were \$788,913. The excess, above the base of \$430,163, is \$358,750. This amount should be divided equally between the county and the State, resulting in \$179,375 excess due the State. The county has remitted a previous payment of \$123,403, causing an underremittance of \$55,972.

The qualified revenues reported for FY 2008-09 were \$715,416. The excess, above the base of \$430,163, is \$285,253. This amount should be divided equally between the county and the State, resulting in \$142,626 excess due the State. The county has remitted a previous payment of \$77,234, causing an underremittance of \$65,392.

The qualified revenues reported for FY 2009-10 were \$602,439. The excess, above the base of \$430,163, is \$172,276. This amount should be divided equally between the county and the State, resulting in \$86,138 excess due the State. The county has remitted a previous payment of \$38,020, causing an underremittance of \$48,118.

The qualified revenues reported for FY 2010-11 were \$554,559. The excess, above the base of \$430,163, is \$124,396. This amount should be divided equally between the county and the State, resulting in \$62,198 excess due the State. The county has remitted a previous payment of \$13,995, causing an underremittance of \$48,203.

The following table shows the effect of the underremittances:

	Understated/					
Account Title	(Overstated)					
Trial Court Improvement Fund–GC §77205						
FY 2004-05	\$	47,854				
FY 2005-06		50,386				
FY 2006-07		53,544				
FY 2007-08		55,972				
FY 2008-09		65,392				
FY 2009-10		48,118				
FY 2010-11		48,203				
County General Fund		(369,469)				

Recommendation

The county should remit the amount of \$369,469 to the State Treasurer and report on the remittance advice form (TC-31) an increase to the Trial Court Improvement Fund–GC section 77205. The county also should make the corresponding account adjustments.

County Auditor's Response

The Lassen County Auditor agreed with the audit results, but not with the identified causes of the problems. Also, the County Auditor requested that penalties and interest be waived.

Superior Court's Response

The Superior Court did not respond to this finding.

SCO's Comment

The SCO incorporated the County Auditor's Response to the cause of the finding.

The County Auditor should contact Sandi Rowland of the SCO Division of Accounting & Reporting regarding interest and penalty issues.

FINDING 2— Incorrect distributions for red-light cases The Superior Court incorrectly distributed required distributions for red light violations for the following items:

- EMS \$4 Emergency Medical Air Transportation penalty (GC §76000.10)
- 30% red-light (PC §1463.11)
- Base fines (PC §1463.001 and §1463.002)
- State penalties (PC §1464)
- County penalties (GC §76000)
- State Court Facilities Construction Fund Penalty penalty on criminal fines (GC §70372a)

The above statutes are described in the respective code sections of the Penal Code (PC) and Government Code (GC). The court staff indicated that they were not aware of their system's inaccurate distribution formulas for red-light cases until the result of an internal control audit performed by the internal auditors of the Administrative Office of the Courts.

Failure to implement these statutory distributions affects the revenue distributions reported to the State, county, and incorporated cities. Measuring the fiscal effect was determined not to be cost-effective because of the difficulty in identifying the redistributing the various accounts.

Recommendation

The Superior Court should implement procedures to correct the formulas within their distribution system for red-light and red-light Traffic Violator School cases. Additionally, the Court should make the corresponding redistributions for the period of July 2011 through the date their current system is revised.

County Auditor's Response

The County Auditor did not respond to this finding.

Superior Court's Response

The Superior court stated that this finding was corrected after an Administrative Office of the Courts (AOC) audit. Therefore, it should be removed from this report.

SCO's Comment

The AOC audit report was issued in November 2010, and the Superior Court corrected the finding after the AOC audit. Therefore, the finding was valid during the audit period, which covered the period from July 2004 through June 2011. The finding remains as stated, although no corrective actions are needed.

FINDING 3— Incorrect distributions of red-light Traffic Violator School cases The Superior Court incorrectly distributed required distributions for red-light with Traffic Violator School cases for the following items:

- 30% red-light (PC §1463.11)
- Traffic Violator School fees (VC §42007)
- State Court Facilities Construction Fund Penalty penalty on criminal fines (GC §70372a)

The above statutes are described in the respective code sections of the Penal Code and Government Code. The court staff indicated that they were not aware of their system's inaccurate distribution formulas for red-light Traffic Violator School cases until the results of an internal control audit performed by the internal auditors' of the AOC.

Failure to implement these statutory distributions affects the revenues reported to the State, county and incorporated cities. Measuring the fiscal effect was determined not to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should implement procedures to correct the formulas within their distribution system for red-light and red-light Traffic Violator School cases.

County Auditor's Response

The County Auditor did not respond to this finding.

Superior Court's Response

The Superior Court stated that the distribution was corrected after an AOC audit. Therefore, it should be removed from this report.

SCO's Comment

The AOC audit report was issued in November 2010, and the Superior Court corrected the finding after the AOC audit. Therefore, the finding was valid during the audit period, which covered the period from July 2004 through June 2011. The finding remains as stated, although no corrective actions are needed.

FINDING 4— Incorrect distributions on city Traffic Violator School cases

The Superior Court incorrectly distributed required distributions for city Traffic Violator School cases for the following items:

- 20% surcharge (PC 1465.7)
- Base fines (PC 1463.002)
- Trial Court Improvement Fund 2% Court Automation Fee (GC 68090.8)
- State Court Facilities Construction Fund Penalty penalty on criminal fines (GC 70372a)

The above statutes are described in the respective code sections of the Penal Code and Government Code. The court staff indicated that they were not aware their system had not been programmed with the correct distribution formulas for city Traffic Violator School cases.

Failure to implement these statutory distributions affects the revenues reported to the State, county, and incorporated cities. Measuring the fiscal effect was determined not to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should update their distribution formulas to ensure that the distributions comply with statutory requirements. Additionally, the Court should make the corresponding redistributions for the period of July 2011 through the date the current system is revised.

County Auditor's Response

The County Auditor did not respond to this finding.

Superior Court's Response

The Superior Court stated that the finding has been corrected.

SCO's Comment

The finding remains as stated.

FINDING 5— Incorrect distributions on DUI cases

The Superior Court incorrectly distributed required distributions on Driving-Under-the-Influence (DUI) cases for the following items:

- 20% surcharge (PC §1465.7)
- EMS \$4 Emergency Medical Air Transportation penalty (GC §76000.10)
- Base fines (PC §1463.001)
- State penalties (PC §1464)
- County penalties (GC §76000)
- Trial Court Improvement Fund 2% Court Automation Fee (GC §68090.8)
- State Court Facilities Construction Fund Penalty penalty on criminal fines (GC §70372a)
- DNA accounts (GC §76104.6 and §76104.7)

The above statutes are described in the respective code sections of the Penal Code and Government Code. The court staff indicated that they were not aware their system had not been programmed with the correct distribution formulas for DUI convictions.

Failure to implement these statutory distributions affects the revenues reported to the State, county, and incorporated cities. Measuring the fiscal effect was determined not to be cost-effective because of the difficulty in identifying and redistributing the various accounts.

Recommendation

The Superior Court should update their distribution formulas to ensure that the distributions comply with statutory requirements. Additionally, the Court should make the corresponding redistributions for the period of July 2011 through the date their current system is revised.

County Auditor's Response

The County Auditor did not respond to this finding.

Superior Court's Response

The Superior Court stated that the finding has been corrected.

SCO's Comment

The finding remains as stated.

FINDING 6— Incorrect distributions for evidence-offinancial-responsibility violation cases

The Superior Court incorrectly distributed required distributions for evidence-of-financial-responsibility cases for the following items:

- Base fines (PC §1463.001 and §1463.002)
- State penalties (PC §1464)
- County penalties (GC §76000)
- State Court Facilities Construction Fund Penalty Immediate and Critical Needs Account – assessment on infraction (GC §70373)
- State Court Facilities Construction Fund Penalty penalty on criminal fines (GC §70372a)
- DNA accounts (GC §76104.6 and §76104.7)

The above statutes are described in the respective code sections of the Penal Code and Government Code. The court staff indicated that they were not aware their system had not been programmed the correct the distribution formulas for evidence-of-financial-responsibility cases.

Failure to implement these statutory distributions affects the revenues reported to the State, county, and incorporated cities. Measuring the fiscal effect was determined not to be cost-effective because of the difficulty in identifying the redistributing the various accounts.

Recommendation

The Superior Court should update their distribution formulas to ensure that the distributions comply with statutory requirements. Additionally, the Court should make the corresponding redistributions for the period of July 2011 through the date their current system is revised.

County Auditor's Response

The County Auditor did not respond to this finding.

Superior Court's Response

The Superior Court stated that they are currently working with the State Controller's Office to develop the correct distribution based on Lassen County's Penalty Assessments.

SCO's Comment

The finding remains as stated.

Attachment A— County Auditor's Response to Draft Audit Report



Karen Fouch
Auditor
Diana Wemple
Assistant Auditor
County Administration Center
221 South Roop Street, Suite 1
Susanville, CA 96130-4339

(530) 251-8233

FAX: (530) 251-2664

e-mail: kfouch@co.lassen.ca.us
e-mail: dwemple@co.lassen.ca.us

May 15, 2013

Steven Mar, Chief, Local Government Audits Bureau State Controller's Office Division of Audits P O Box 942850 Sacramento CA 94250-5874

Dear Mr. Mar:

Please accept this response from the County of Lassen regarding the draft Trial Court Revenue Audit for the period of July 1, 2004 through June 30, 2011.

The State Controller's Office has determined that trial court revenues were under-remitted to the State during the period audited. After discussion with the SCO auditor we concur with the determination, but we disagree with the identified cause of the problem. For the following reasons we are requesting that repayment of under-remitted revenue is accepted over the same time frame as the debt was incurred. We also request that penalties and interest be waived.

- The draft audit states that the error occurred because the county used incorrect entries in the MOE distribution working papers. The entries used were those provided by the Lassen Superior Court in the Annual Report of Revenue and the calculations were completed using AOC instructions and forms. The county's procedures for determining the amount of 50% excess revenue due were reasonable and correct based on the information provided. To support this conclusion, attached are copies of completed AOC forms *Report of 50/50 Excess Split Revenue* and Lassen Superior Court's *Report of Revenue* for fiscal years 2004/05 and 2010/11.
- The draft audit covers the seven (7) year period between July 2004 and June 2011. Had audits been completed at timely intervals, issues would have been corrected and proper amounts remitted in a timely manner. The delay in audits contributed in creating an overwhelming burden for the county to remit an amount that compounded over seven years.
- There have been numerous changes to the collection and distribution of trial court revenue in the last seven years. The process has become extremely complicated yet little guidance has been made available to insure compliance with the regulations that apply to fine and penalty distributions.

Steven Mar, Chief, Local government Audits Bureau May 15, 2013 Page 2

We understand that the State lost revenue due to under-remitted trial court revenue. Now that we are aware of the shortcomings of the reports used for the preparation of the annual remittance, changes will be made to correct revenue reporting.

Lassen County makes every effort to distribute trial court revenues appropriately. However, we are only as good as the information we receive. Because of misleading forms and data, infrequent audits, and little guidance, amounts were under-remitted for seven years. The repayment of the under-remitted amount plus exorbitant penalties and interest will create a tremendous hardship on our small, rural county. For those reasons we request that repayment of under-remitted revenue is allowed to be made in equal installments over the next seven years without interest or penalties.

Please feel free to contact me if you have any questions. I look forward to your favorable response to this request.

Karen Fouch

Lassen County Auditor

Attachment B— Court's Response to Draft Audit Report



LASSEN

SUPERIOR

COURT

MICHELE VERDEROSA
PRESIDING SUPERIOR COURT JUDGE

TONY MALLERY
SUPERIOR COURT JUDGE

ANDI ASHBY
COURT EXECUTIVE OFFICER

May 13, 2013

Mr. Jeffery Brownfield, CPA Chief, Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816

RE: Lassen County Audit

Dear Mr. Brownfield:

This letter is in response to the draft audit report for Lassen County received on May 3, 2013.

The court responds to the following findings below:

Finding 2 - Incorrect distributions on red light cases

Distribution was corrected after the AOC audit, however, not noted in report.

Finding 3 - Incorrect distributions on red light with traffic violator school cases

Distribution corrected after AOC audit, however not noted in report.

Finding 4 - Incorrect distributions on city traffic violator school cases

Corrected

Finding 5 - Incorrect distributions on DUI cases

Corrected – the court contacted the SCO on 12/10/12 for assistance regarding appropriate distributions, an initial response took more than 6 weeks; subsequent communication took additional 3 – 4 weeks and approximately 3 different individuals to resolve

Finding 6 – Incorrect distributions for evidence of financial responsibility violation cases

Currently working with SCO for correct distribution based on Lassen's County PA

This audit was for a seven year period from 2004 – 2011, quite a lengthy time period. Please note that findings 2 and 3 were corrected after the Administrative Office of the Court's audit. Therefore, the court respectfully requests they be removed from this report as they were corrected and are no longer an issue and have not been for quite some time.

Sincerely,

Andi Ashby

Court Executive Officer

C: Presiding Judge Michele Verderosa Karen Fouch, Lassen County Auditor

2610 Riverside Drive, Susanville, CA 96130 & (530) 251-8205

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http://www.sco.ca.gov